IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 33494 of 2006(K)

PETITIONER:

TONY ANTONY, S/O. M.A.ANTONY,
AGED 38 YEARS, 6A, ST. GEORGE TOWERS,
PALARIVATTOM, KOCHI-25.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:

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1. THE GREATER COCHIN DEVELOPMENT AUTHORITY, REPRESENTED BY ITS SECRETARY, P.B.NO.2012, KADAVANTHRA, KOCHI-682 020.

2. THE CHAIRMAN, GREATER COCHIN DEVELOPMENT AUTHORITY, P.B.NO.2012, KADAVANTHRA, KOCHI-682 020.

3. ANI CHACKO KOIKARA, DOOR NO.H-2105/H-2106/H-2107, JAWAHARLAL NEHRU INTERNATIONAL STADIUM, KALOOR, KOCHI.

BY ADV. SRI.P.R.RAMACHANDRA MENON, SC,GCDA
SRI.MILLU DANDAPANI
SRI R.K.P.DANDAPANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 33494 of 2006(K)

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE PROCEEDINGS OF THE G.C.D.A. DATED 26/04/2006

EXT.P2 TRUE COPY OF THE RECEIPT OF THE CHEQUE FOR AN AMOUNT OF RS.42,315/- DATED 05/06/2006 ISSUED BY THE G.C.D.A. TO THE PETITIONER.

EXT.P3 TRUE COPY OF THE PAPER PUBLICATION, PUBLISHED BY THE G.C.D.A. IN MALAYALA MANORAMA DAILY DATED 03/12/2006

RESPONDENT'S EXTS:

EXT.R1(1) PHOTOCOPY OF LETTER NO.8907/ESTATE/B2/05/GCDA, DATED 26/08/2006 OF THE 1ST RESPONDENT ADDRESSED TO THE GOVERNMENT

EXT.R1(2) PHOTOCOPY OF LETTER NO.37575/G2/06/LSGD, DATED 17/10/2006 OF THE GOVERNMENT ISSUED TO THE 1ST RESPONDENT

EXT.R1(3) PHOTOCOPY OF JUDGMENT OF THIS HONOURABLE COURT, DATED 14/07/2006 IN W.P.(C) NO.17775/2006.

\\TRUE COPY//

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.33494 OF 2006 (K)

Dated this the 26th day of February, 2007

JUDGMENT

This writ petition is filed on the ground that further action following with Exhibit P1 has not been taken and necessary agreements have not been executed by the G.C.D.A and possession has not been granted to the petitioner. The tendering of the said space stands stayed by an interim order dated 18/12/2006 which has been extended from time to time.

2. This writ petition is filed on 15/12/2006. Before that, on 14/07/2006, Exhibit R1(3) judgment was issued by this Court, directing the GCDA to have competitive bids for leasing out shop rooms. The said judgment is in public interest and, I am in complete agreement with the directions issued thereby and the principles on the basis of which that judgment has been issued.

3. The respondents have placed counter affidavit pointing that the allotment of the shop room to the petitioner was done by the then Secretary without taking appropriate orders from the competent.

4. It is also the admitted case that Exhibit P1 was issued without any competitive offers being invited for allotment of shop rooms in the shopping complex of the GCDA in the Jawaharlal Nehru International Stadium. It needs no elaboration to notice that prime commercial holdings are a matter of genuine commercial attraction and it is in the interest of the GCDA and the public at large that there cannot be any allotment of any commercial space, without competitive bids being invited. In such circumstances, I do not find any ground to issue any direction, as sought for, compelling the GCDA to act on Exhibit P1 and make an agreement with the petitioner and put him in possession. Any such direction, in my considered view, would run contrary to public interest and the directions in Exhibit R1(3) judgment.

In the result, while referring the relief sought for, it is directed that the amounts collected from the petitioner will be returned to the petitioner with interest, at the rate of 6% per annum, from the date of deposit of such amount. GCDA shall, thereafter, auction out or invite tenders for the premises in question. It shall also follow the same yardstick for the other premises, as well. Following Exhibit R1(3) judgment, it would be sufficient for the GCDA to take further action on the basis of Exhibit P3 paper publication in that regard, as has already been made.

THOTTATHIL B.RADHAKRISHNAN
Judge

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